IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11584 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DEVENDRA @ D D NATUBHAI DABHI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 11584 of 2003

MR MM TIRMIZI for Petitioner No. 1

MR RM CHAUHAN Ld. AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE J.R.VORA

Date of decision: 08/10/2003

ORAL JUDGEMENT

By way of this special civil application, the petitioner has challenged the order of detention passed against him by the District Magistrate, Bhavnagar on

26.4.2003 under the exercise of powers under sec. 3(2) of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the PASA Act" for short).

The grounds served upon the petitioner and placed on record reveal that the detaining authority relied upon four offences registered against the petitioner on 27.5.2002, 15.7.2002, 29.7.2002 and 2.2.2003 under sec. 324, 323, 504, 506(2) of IPC and 114 of BP Act. All the cases were pending in the court when the order served upon the petitioner. In addition to this, the detaining authority also relied upon the statements as recorded by the Sponsoring authority on 23.3.2003 and on 24.3.2003. In all, four in-camera statements recorded by the sponsoring authority on 23.3.2003 and 24.3.2003 and verified by the Sub Divisional Police Officer of Bhavnagar city on 24.3.2003. From the above material, the order impugned came to be passed on 26.3.2003.

Heard ld. advocate Ms. Qureshi for Mr MM Tirmizi for the petitioner and ld. AGP Mr. RM Chauhan for the respondents were heard at length.

Out of various contentions raised on behalf of the petitioner and controverted by ld. AGP, it appears that the matter can be disposed of on the ground that whether the order impugned is vitiated on the ground of delay in passing the order. The chronology of the events as disclosed above narrating the dates of registering the criminal offences against the petitioner, while in-camera statements discloses the incidents occurred before 8 days, 10 days or 15 days before the recording of the statements i.e. on 23.3.2003 and 24.3.2003. The statements made were verified on 24.4.2003 and the order came to be passed on 26.4.2003. If the date of last offence registered against the petitioner is taken into consideration, the order is passed with delay of about two and half months. Even if unreported incidents are taken into consideration, it clearly appears that there is delay in passing of the order. The facts of this case are squarely covered by a decision of the Apex Court in the matter of Pradeep N. Paturkar vs. S. Rammurthi as reported in AIR 1994 SC 656 and a decision of this Court in the matter of Elesh Nandubhai Patel vs. Commissioner of Police Ahmedabad city, as reported in 1997(1) GLH p. 381. The order impugned is required to be quashed on this ground alone.

In the result, this special civil application is

allowed. The order impugned in this special civil application passed on 26.4.2003 by the District Magistrate, Bhavnagar, under the PASA Act against the petitioner is quashed and set aside. The petitioner is directed to be set at liberty forthwith, if he is not required to be detained in jail for any other purpose. Rule made absolute with no order as to costs. DS Permitted.

(J.R. VORA, J.)

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